IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 4846 of 2005(B)

PETITIONER:

ASHA. V.S., P.D. TEACHER,
GOVERNMENT VOCATIONAL HIGHER SECONDARY
SCHOOL, PAZHANJI, THRISSUR DISTRICT.

BY ADV. SRI.DEEPU THANKAN
SMT.DEEPA DEEPU THANKAN

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

2. THE PRINCIPAL, GOVERNMENT VOCATIONAL
HIGHER SECONDARY SCHOOL, PAZHANJI.

BY GOVERNMENT PLEADER SRI.AKSHMI NARAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

P1: True copy of the statement dated 23-2-1999
P2: True copy of the objection dated 13-1-2003
P3: True copy of the order dated 7-7-2003
P4: True copy of the representation dated 19-9-2003

RESPONDENT'S EXHIBITS:-

R1(a): True copy of the order G.O.(Rt)No.3718/89/G.Edn. Dated 40-12-1988
R1(b): True copy of G.O.(Rt) No.5250/92/GE dtd. 24-12-1992

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 4846 OF 2005-B

JUDGMENT

The petitioner is a P.D.Teacher, who joined service on the advice of the P.S.C on 1.7.1988. She was on leave without allowance from 1.12.1989 to 10.6.1994. After completion of the leave, she rejoined duty on 10.6.1994. Prior to joining Government service, she had rendered provisional service under the Government during two spells. They were from 6.11.1982 to 30.4.1983 and from 29.8.1983 to 30.4.1984. Thereafter, she worked in an aided school from 17.7.1984 to 29.3.1985 and again from 24.6.1985 to 30.6.1988. As per Ext.P1 statement of fixation of pay, she was granted Higher Grade on completion of 10 years' service with effect from 16.2.1998. The provisional service as well as the service rendered in the aided school was also taken into account for the grant of Higher Grade. Later, based on audit objection, the Deputy Director of Education issued Ext.P3 communication to her Headmaster to revise her salary and to recover the excess amount. Against Ext.P3, the petitioner preferred Ext.P4 petition before the Deputy Director of Education, Thrissur and thereafter, this writ petition was filed. According to the petitioner, the service rendered by her

can be reckoned for grant of increments and therefore, the same should be counted for grant of Higher Grade also. In support of that submission, reliance is placed on the circular issued by the Department of General Education No.52373/J2/98/G.Edn dated 6.3.1998.

2. The respondents have filed a counter affidavit, resisting the prayers in the writ petition.

3. I prima facie feel that there is considerable force in the submission of the petitioner, going by the Government circular relied on by her. Therefore, the matter requires reconsideration by the competent authority, after affording an opportunity of being heard to the petitioner. So, the 1st respondent is directed to consider Ext.P4, after affording an opportunity of being heard to the petitioner and also taking into account the relevant Government orders concerning grant of Higher Grade to Teachers without being influenced by the audit objection. This the 1st respondent shall do within two months from the date of production of a copy of this judgment. If the petitioner produces a copy of this judgment within one month from today before the 1st respondent, further proceedings pursuant to Ext.P3 will remain in abeyance till the matter is decided as directed above. If the petitioner's turn for the next Higher Grade has arisen, the same shall also be

granted to her, subject to her satisfying the other relevant stipulations.

The Writ Petition is disposed of as above.

10th December, 2007. **K.BALAKRISHNAN NAIR, JUDGE**.

Nm/